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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/583,021

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Sandra Ketterl

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08/03/2009

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EXAMINER

ALTUN, NURI B

ART UNIT

PAPER NUMBER

3657

MAIL DATE

DELIVERY MODE

08/03/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/583,021	Applicant(s) KETTERL ET AL.	
	Examiner Nuri Boran ALTUN	Art Unit 3657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-8 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/09/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment received on 04/15/2009 has been acknowledged. Claims 1, 2 and 5-8 have been amended. Claims 3, 4 and 9-11 have been cancelled. New claim 12 has been added.

Claim Rejections - 35 USC § 112

Previous rejections under 35 USC 112 have been overcome after the amendment of claim 5.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims **1, 2, 5, 6, 8** and **12** are rejected under 35 U.S.C. 102(b) as being anticipated by **Inoue et al. (5,868,638)**.

As per claim 1, Inoue et al. teach a device for an internal combustion engine having a tension or guide rail (1) for a flexible drive means (4) and an additional component (10) interacting with the internal combustion engine, the tension or guide rail comprising a carrier body (4' and 8'), a guide track (8') which can be pressed onto and is in contact with the flexible drive means (see Figs. 1 and 2) and an installation channel (18) which acts independently from the guide track, and which is formed as a circumferential surface and with a first open end and a second open end (see Fig. A), the walls of the installation channel being formed by the carrier body (see Figs. 2-4 and

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see Fig. A below), the first open end and the second open end being arranged on opposite face-side ends of the tension or guide rail (see Figs. 3 and 4 and also see Fig. A) and at least some sections of the additional component (10) extending through the installation channel (see Fig. 2).

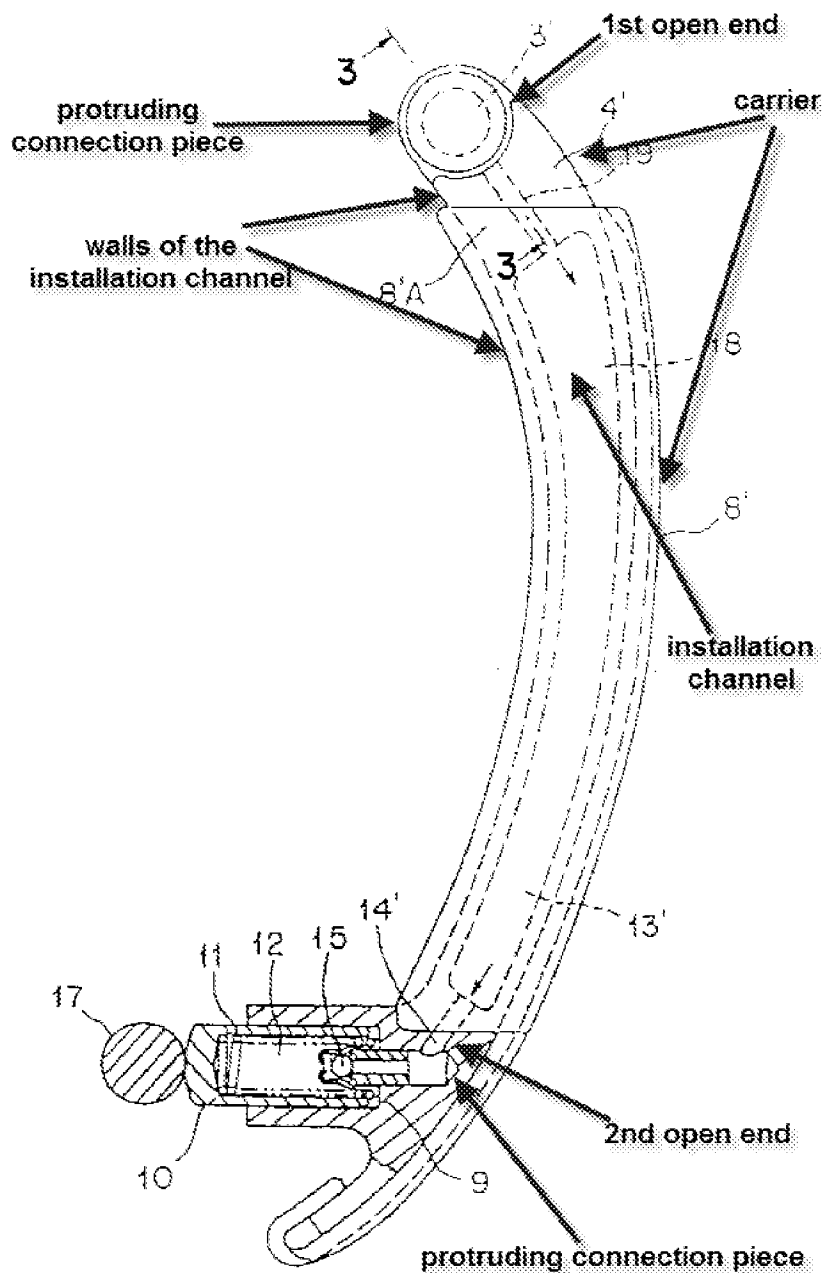


Fig. A

As per claim 2, Inoue et al. teach the carrier body comprises at least a first and at least a second carrier-body side part (4' and 8'), the carrier-body side parts being joined together and jointly define the installation channel (col.4, lines 52-55 and see Figs. 2-4).

As per claim 5, Inoue et al. teach the first open end is formed with a protruding connection piece (4') (see Fig. A).

As per claim 6 Inoue et al. teach the tension or guide rail comprises a slideway liner (8) which is joined to the carrier body and forms the guide track (col.7, lines 47-48) and see Fig. C below).

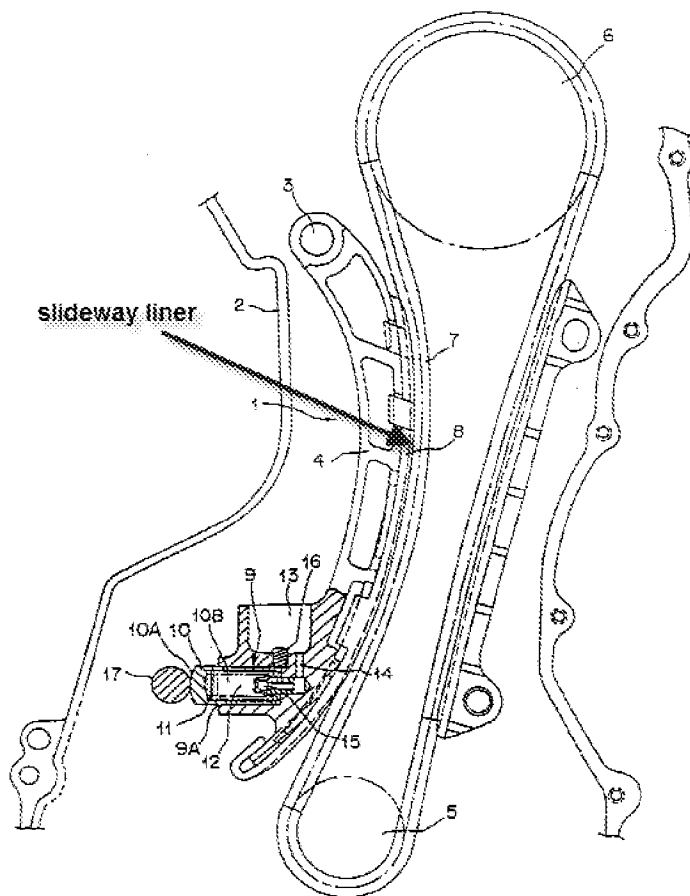


Fig. C

As per claim 8, Inoue et al. teach the slideway liner (8) is joined to the carrier body in a positive locking manner (see Fig.1 and col.4, lines 17-21).

As per claim 12, Inoue et al. teach the second open end is formed with a protruding connection piece (see Fig. A).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Inoue et al. (5,868,638)**, in view of **Young (20030158008)**.

Inoue et al. teach all the structural limitations of the invention, as mentioned in claim 6 above, but do not explicitly disclose the slideway liner is injected onto at least one carrier-body side part.

Young teaches the slideway liner (22) is injected onto at least one carrier-body side part (paragraph 0029, lines 7-12).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mechanism of Inoue et al. to include the slideway liner injection as taught by Young in order to provide an inexpensive connection method of the liner to the body of the rail.

Response to Arguments

Applicant's arguments filed on 04/15/2009 have been fully considered but they are not persuasive.

The applicant first argues, "the examiner's interpretation of Inoue et al. reference is too broad and based on hindsight reasoning. That is, the first embodiment described in Inoue et al. shows a channel formed and closed on its circumferential surface, wherein the walls of the installation channel are not only formed by the carrier body, but also by the tensioning shoe." The examiner notes that the walls of the installation channel are formed by the carrier body as seen in Figs. 2-4 and Fig. A. The walls of the installation channel being formed also by the tensioning shoe does not preclude the

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Inoue et al. reference from anticipating the limitation "the walls of the installation channel are formed by the carrier body." Therefore, the interpretation of the reference is not broad by any means. Further, only one embodiment of Inoue et al. (Figs. 2-4 of Inoue et al.) is used to reject claim 1, the rejection is made under 35 U.S.C. 102(b). No different embodiments or references are combined; therefore, the interpretation is not based on hindsight reasoning.

The applicant next argues, "Figures 5 to 7 of Inoue et al. describe a further embodiment providing only an open groove in the carrier body, so that the oil supply to the check valve has to be provided by an oil supply pipe 20. The examiner's attempted mixing of two different Inoue et al. embodiments is obviously not within the normal behavior of a person skilled in the art." The examiner notes that Inoue et al.'s embodiment of Figs. 5-7 have not been relied upon. The rejection is based upon Inoue embodiment of Figs. 2-4 under 35 U.S.C. 102(b).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nuri Boran ALTUN whose telephone number is (571)270-5807. The examiner can normally be reached on Mon - Fri 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272 7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bradley T King/
Primary Examiner, Art Unit 3657

NBA